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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,087	11/25/2003	Glyn C. Livermore	136846SV/YOD GEMS:0246	7906
68174	7590	06/25/2008	EXAMINER	
GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289			DAFTUAR, SAKET K	
			ART UNIT	PAPER NUMBER
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			06/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/723,087	Applicant(s) LIVERMORE ET AL.	
	Examiner SAKET K. DAFTUAR	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-16 are elected for the examination.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, drawn to computer to computer remote access, classified in class 709, subclass 217-219.
 - II. Claims 17-22, drawn to Imaging, display and signaling, classified in class 378, subclass 62-63, 98.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as computer to computer remote access. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to

provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. During a telephone conversation with applicant assigned representative Mr. John Rariden on June 12, 2008 a provisional election was made with traverse to prosecute the invention of 1, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 10-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 10-16 recite the limitation “computer program for facilitating remote operation comprising routine”. Computer program comprising routines are directed to computer software and instruction and therefore, the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either “functional descriptive

Art Unit: 2100

material” or “nonfunctional descriptive material.” Both types of “descriptive material” are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Zur et al. US Patent Number 6,178,225 B1 (hereinafter Zur).

As per claim 1, Zur discloses providing information regarding an imaging system environment to a remote location(see Abstract, Figure 1, column 1, line 42 - column 2, line 24); and activating the imaging system from the remote location based on the information regarding the imaging system environment(see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3,line 20-column 4, line 18) .

As per claim 2, Zur discloses information regarding the imaging system environment comprises at least one of a video, one or more images, an audible indicator, a textual message, a temperature, and a humidity (see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3,line 20- column 4, line 18 and column 6, lines 18-33 and column 6 ,lines 51-57) .

As per claim 3, Zur discloses information regarding the imaging system environment comprises one or more indicia of the presence of a person(see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3,line 20-column 4, line 18) .

As per claim 4, Zur discloses information regarding the imaging system environment comprises one or more indicia of the position of a moving component of the imaging system(see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3,line 20- column 4, line 18) .

As per claim 5, Zur discloses providing information comprises transmitting the information over at least one of a network and a dedicated line(see Abstract,

Figure 1, column 1, line 42 - column 2, line 34 and column 3, line 20- column 4, line 18 and column 6, lines 18-33) .

As per claim 6, Zur discloses the remote location is a remote service facility(see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3, line 20- column 4, line 18 and column 6, lines 18-33 and column 6 ,lines 51-57).

As per claim 7, Zur discloses the imaging system comprises one of a CT imaging system, an MR imaging system, an EBT imaging system, a tomosynthesis imaging system, a PET imaging system, and a digital X-ray imaging system(see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3, line 20- column 4, line 18) .

As per claim 8, Zur discloses acquiring the information regarding the imaging system environment from at least one of a local operator and one or more local sensors(see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3, line 20- column 4, line 18 and column 6, lines 18-33 and column 6 ,lines 51-57) .

As per claim 9, Zur discloses the one or more local sensors comprise a video camera, a web cam, a still camera, a microphone, a thermometer, a thermocouple, a pressure sensor, and a hygrometer (see Abstract, Figure 1, column 1, line 42 - column 2, line 34 and column 3, line 20- column 4, line 18 and column 6, lines 18-33 and column 6, lines 51-57).

As per claim 10-16, they do not teach or further define over the limitation as recited in claims 1-9. Therefore, claims 10-16 are rejected under same scope as discussed in claims 1-9, *supra*.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Method and apparatus for overcoming the limitations of camera angle in video conferencing applications *by Runcie et al. U.S. Patent Number 6,753,900 B2.*

b. Patient-driven medical data processing system and method *by Sabol et al. U.S. Publication Number 2004/0122707 A1.*

10. A shortened statutory period for reply to this non-final action is set to expire THREE MONTHS from the mailing date of this action. Failure to respond within the period for response will result in ABANDONMENT of the applicant (See 35 U.S.C 133, M.P.E.P 710.02,71002 (b)).

Contact Information

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saket K. Daftuar whose telephone number is 571-272-8363. The examiner can normally be reached on 8:30am-5:00pm M-W.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. K. D./
Examiner, Art Unit 2151
/John Follansbee/
Supervisory Patent Examiner, Art Unit 2151